



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

December 15, 2023

**REQUEST TO BE FILED UNDER SEAL**

**BY ECF AND HAND DELIVERY**

The Honorable Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: United States v. Richard Zeitlin, 23 Cr. 419 (LAK)**

Dear Judge Kaplan:

In advance of the *Curcio* hearing scheduled in this matter for December 21, 2023, the Government respectfully writes further to its letter of September 13, 2023 (Dkt. 15), to advise the Court of the following:

The defendant's call center business (the "Zeitlin Call Centers") worked with a marketing company (the "Marketing Company"), which was and is operated by lead defense counsel's brother (the "Brother"). The Marketing Company created mailers, among other things, for certain of the Zeitlin Call Centers' clients, including political action committees ("PACs") for which the Zeitlin Call Centers made misleading solicitation calls central to this prosecution. The Brother is a potential witness at trial [REDACTED]. The Government has produced to the defendant in discovery: materials provided to the Government by the Marketing Company, certain of the Brother's emails seized pursuant to judicially authorized search warrants, and other materials relating to the Brother. In addition, in or about June 2023, approximately two months before Indictment 23 Cr. 419 (LAK) was filed in this matter, the Brother submitted a request to the Federal Bureau of Investigation under the Freedom of Information Act for materials relating to the Government's investigation.<sup>1</sup>

Based on the above, which raises additional potential conflicts of interest, the Government proposes the following additional questions to be added to the *Curcio* examination of the defendant, prior to questions relating to "Right to Conflict-Free Representation."

<sup>1</sup> [REDACTED]

[REDACTED] The Government has applied redactions to portions of this letter that address ongoing, non-public investigative matters, and respectfully requests that the unredacted copy be filed under seal.

Circumstances of Representation (Robert Bernhoft)

- a. Do you understand that Mr. Bernhoft's brother is a potential trial witness in this matter because of his involvement with a marketing company that did business with your call centers and your call center's clients?

[REDACTED]

- c. Do you understand that Mr. Bernhoft employs certain family members at his law firm who may also be related to his brother?
- d. Do you understand that Mr. Bernhoft's relationship with his brother could interfere with his loyalty to you in this matter?
- e. Do you understand that Mr. Bernhoft's relationship with his brother could interfere with his professional judgment of what strategies you should or should not take in this case?

Respectfully submitted,

DAMIAN WILLIAMS  
United States Attorney

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cc: Defense Counsel (by ECF)